ther denied that Chambers ever had an old brown suit case. Instead he claimed that (P7) belonged to Chambers and that Chambers had this bag with him all along from Singapore to Kuala Lumpur and then to Penang. To show that he had nothing to do with putting (P7) and his clothings in (P5) he insisted that he took a bath after Chambers had taken his. He maintained that he had kept his clothings separately and that the reason why some of his clothings were in (P5) was because Police made a mistake during the search at the Police Station and thereby the clothings got mixed up. He said that he carried (P5) because this bag happened to be the first one taken out by the taxi driver when they arrived at Penang International Airport.

The learned judge very carefully examined the defence evidence point by point and in the end came to the conclusion that the defence had not rebutted the presumption that arose and did not raise in his mind any reasonable doubt at all on the prosecution case, nor did it appear to be reasonable or consistent with innocence so as to entitle them or either of them to an acquittal. He accepted the truth of the evidence of PW1, the chemist, PW2 and PW5. In his grounds of judgment, before coming to this conclusion, he dealt at some length with a number of specific issues of fact raised by the defence, such as whether there was or there was not an old brown suitcase, which as Chambers claimed was the one he had travelled with from Australia to Penang, and whether the mixing-up of each other's clothings in (P5) and (P3) was due to the mistake by the police made during the course of police search or whether they were already mixed-up or whether the mixing-up was deliberately done by Chambers.

Looking at the evidence for the defence it would appear to strengthen the case for the prosecution rather than detracting from it.

We find nothing in this appeal on which there could be any justification for us to interfere with the learned judge's findings.

We therefore affirm his finding and uphold the conviction and sentence of both appellants and both the appeals are dismissed. We would like to express our appreciation to the counsel on both sides for the careful arguments addressed to us.

Appeals dismissed.

Solicitors: *Karpal Singh & Co.; R. Rajasingam & Co.*

SEE HUA DAILY NEWS BHD. v. TAN THIEN CHIN & ORS.

[S.C. (Seah, Mohamed Azmi & Wan Hamzah S.C.JJ.) October 14, & December 30, 1985]

[Kuching – Supreme Court Civil Appeal No. 23 of 1985]

Practice and Procedure – Foreign judgment – Judgment obtained in Brunei Darussalam – Enforcement of judgment – Action on judgment at common law – Application for summary judgment – Allegation of fraud held to be frivolous – Application to adduce fresh evidence refused – Judgment should be in Malaysian currency – R.H.C. 1980, O. 14

By a consolidated action, the five respondents brought a claim for damages against the appellants in the High Court at Bandar Seri Begawan, Brunei Darussalm, for libel published in their journal. The appellants were found liable in July 1982 and for each of the respondents damages were assessed in the sum of B$15,000/- (total B$75,000/-) with taxed costs at B$34,192.12 cts. The appellants then appealed against the said judgment to the Brunei Court of Appeal, but it was withdrawn and discontinued on November 17, 1983. The respondents then brought the present action in the High Court at Miri to recover the said judgment totalling B$109,192.12 cts. On December 10, 1984 the High Court at Miri allowed the respondents' application for summary judgment for the sum claimed in Brunei currency under Order 14 RSC 1980, notwithstanding that the appellants had alleged fraud in the Brunei judgment. On appeal to the Supreme Court.

Held, dismissing the appeal: (1) an Order 14 judgment based on a final foreign judgment given on merits by a court of competent jurisdiction can be allowed in a proper case, even if there is allegation of fraud provided the court is satisfied that the fraud alleged is clearly frivolous. In the circumstances of this particular case, it is obvious that the allegation of fraud is frivolous, and the trial judge was justified in treating it as such;

(2) the Miri High Court proceeding was an action on a foreign judgment at common law. Brunei Darussalam is not included in the first schedule to the Reciprocal Enforcement of Judgments Act 1958 and as such the respondents had to file an action on the judgment at common law for enforcement of the foreign judgment in Malaysia;

(3) since the claim is based on foreign judgment at common law, the judgment in Miri should be decreed in Malaysian currency equivalent to B$109,192.12 cts. on the basis of Bank Negara rate of exchange prevailing at the date of the Order 14 Malaysian judgment. Except for this variation the order of the High Court is affirmed.

Cases referred to:

(1) *Wallingford* v. *Mutual Society* (1880) 5 App. Cas. 685, 704.

(2) *S. Mariappan* v. *Government of Malaysia* [1983] 2 M.L.J. 340.
(3) *Codd* v. *Delap* (1905) 92 L.T. 510 H.L.
(4) *Lau Foo Sun* v. *Government of Malaysia* [1970] 2 M.L.J. 70.
(5) *Abouloff* v. *Oppenheimer* (1882) 10 Q.B.D. 295.
(6) *Vadala* v. *Lawes* (1890) 25 Q.B.D. 310.
(7) *Syal* v. *Heyward* [1948] 2 K.B. 443; [1948] 2 All E.R. 576.
(8) *Svirskis* v. *Gibson* [1977] 2 N.Z.L.R. 4, 10.
(9) *The Despina R* [1979] A.C.685.

SUPREME COURT.

Lin Kuan Yuh for the appellant.
Mekanda Singh Sandhu for the respondents.

Cur. Adv. Vult.

Mohamed Azmi S.C.J. (delivering the Judgment of the Court): This is an appeal against the decision of the High Court at Miri, Sarawak, which on December 10, 1984 allowed the respondents application for summary judgment in the total sum of B$109,192.12 cts. under Order 14 RSC 1980 in respect of a judgment obtained in Brunei High Court on July 20, 1982. The relevant part of the Order appealed against reads:–

"*It is ordered* that judgment be entered in favour of the plaintiffs in Brunei currency for the sum of $75,000.00 and taxed costs of $34,192.12, interest thereon at the rate of 8% per annum from the date of judgment until full payment and costs to be taxed."

At the hearing of the Order 14 application, the appellants – a newspaper company incorporated in Malaysia and the proprietor of a journal circulating in Brunei – contested the application on two grounds. First, the Brunei judgment was obtained by fraud, and second, the enforcement of the foreign judgment was against public policy. The entire allegation of fraud can be found in Mr. Lin Kuan Yuh's two affidavits in opposition affirmed on July 10, and October 15, 1984. Paragraph 3 of the first affidavit reads:–

"I crave leave to refer to Order 14 Rule 2(b) of the Rules of the High Court and paragraph 2 of the Defence which averred that the foreign judgment was obtained by fraud and the Plaintiffs' Counsel have requested for the particulars of the fraud, a copy letter dated the 27th day of March, 1984 is now produced and marked 'LKY' and a reply thereto from our firm dated the 16th day of April, 1984 is now produced and marked 'LKY' 1. Therefore the Plaintiffs erred in law and fact in making this application under Order 14 and should be dismissed with cost."

Paragraph 3 of the second affidavit merely adds:–

"It is submitted that the Mekanda Singh Sandhu's Affidavit is irrelevant for the reason that the fraud was discovered after the Brunei trial as stated in Paragraph 2 of the Defence".

Having reminded himself of the established principles in Order 14 application and also the necessity to particularize any defence as propounded by Lord Blackburn in *Wallingford* v. *Mutual Society*,[1] the learned judge found on the factual material before him as deposed by Mr. Lin that the defence of fraud set up by the appellants was not bona fide and that the fraud alleged was frivolous and was put up merely for the purpose of delay. On the second ground, the learned judge also did not find favour with the appellents' contention that the enforcement of the Brunei judgment in Malaysia was against public policy.

These two grounds are again canvassed before us in addition to allegation of procedural defects in the affidavits in support of the respondents' Order 14 application and as well as to objection on the jurisdiction of the Borneo High Court to deal with the case. Both the objections on procedure and jurisdiction were never raised before. This court has a discretion in the interest of justice to allow the objection on jurisdiction although it was never raised in the court below (see *S. Mariappan* v. *Government of Malaysia*[2]). However, since the appellants had voluntarily appeared in the Brunei High Court and had submitted to its jurisdiction, and also had entered unconditional appearance in the court below, Mr. Lin Kuan Yuh for the appellants concedes that in reality the appeal is not based on jurisdiction of either the foreign or Malaysian Court, but it is on the original basis that the court at Miri ought not to have allowed the Order 14 application. As regards the procedural objection, it is our view that whatever defects there might be in the affidavits in support of the applications must be deemed to have been waived. Mr. Manikam Kugarajah's two affidavits were read at the hearing without any objection, and their contents were in fact cited by the appellants' advocate in the course of his argument. On the public policy ground, Mr. Lin is unable to develop any argument on the subject, both here and in the court below. In the event, we agree with the learned judge that no triable issue exists on the defence of the appellants that the enforcement of the Brunei judgment is against public policy.

The Reciprocal Enforcement of Judgments Act 1958 (Revised 1972) as in the case of the United Kingdom Foreign Judgments (Reciprocal Enforce-

ment) Act 1933, does not greatly depart from the common law rules, and its main advantage is procedural. In providing for direct execution of foreign judgments, it obviates the necessity of first obtaining a local judgment with the attendant requirement of establishing jurisdiction over the defendant as a pre-condition. Brunei is not included in the First Schedule to the Reciprocal Enforcement of Judgments Act 1958, and as such no Brunei judgments can be registered for enforcement in this country. It is because of this difficulty that the respondents have to file an action on the judgment at common law in the High Court at Miri. In an action on the judgment at common law, one or more of the following defences may be raised – (1) that the foreign court had no jurisdiction; (2) that the judgment was obtained by fraud; (3) that the judgment would be contrary to public policy, and (4) that the proceedings in which the judgment was obtained were opposed to natural justice. Similar defences are also available under section 5 Reciprocal Enforcement of Judgments Act 1958 for setting aside the registration of a foreign judgment. As stated earlier, the appellants have raised two of these defences but only one – the defence of fraud – merits our consideration

Fraud operates as a ground upon which both a domestic judgment and a foreign judgment may be impeached. In an action on a foreign judgment at common law, a summary judgment under Order 14 may be given in a proper case. In *Codd* v. *Delap*[3] it was held that an allegation in the defendants' affidavit that the foreign judgment was obtained by fraud is sufficient to entitle the defendant to leave to defend, unless it is obvious that the allegation of fraud is frivolous. In that case Lord Lindley had this to say:–

"When an application is made under Order XIV for judgment on a foreign judgment, and an affidavit is put in to the effect that the foreign judgment is impeachable for fraud, the greatest possible caution is required in proceeding further; and, unless it is obvious that the allegation of fraud is frivolous and practically moonshine, Order XIV ought not to be applied."

Thus, the only issue in this appeal is whether the defence of fraud in the Brunei judgment has been correctly held to be frivolous, so as to be incapable of raising a triable issue as a ground for ordering the respondents' claim to go for trial. It is necessary to understand the nature of the fraud alleged, and for this we have to revert to the undisputed facts of the case which led to the contested Brunei judgment on which the Order 14 judgment of the Borneo High Court is based. By a consolidated action, the five respondents brought a claim for damages against the appellants in the High Court at Bandar Seri Begawan for libel published in their journal. The case was heard before Sir Alan Huggins sitting as a Commissioner, who on July 1982 gave judgment for each of the five respondents in the sum of B$15,000/- as damages (total B$75,000) with costs taxed at B$34,192.12 cts. The appellants then appealed against the said judgment to the Brunei Court of Appeal, but it was withdrawn and discontinued by the appellants on November 17, 1983. The Brunei judgment is therefore a final and regular judgment as understood by the courts in this country. It was a simple case of libel which appeared on May 25, 1978 issue of the appellants' journal circulating in Brunei which published an advertisement congratulating the President of the Republic of China on his third term office of presidentship purportedly coming from the five respondents and 17 others, as loyal and ardent admirers of the President. It was conceded at the Brunei trial that the five respondents who were personally named amongst the signatories in the congratulatory message, had never requested or authorised the publication of the advertisement. Indeed, when a complaint was lodged by the respondents, an apology for the libel was immediately published by the appellants in the very next day issue of the journal. The apology categorically admitted that the appellants' office at Bandar Seri Begawan had received a telephone call requesting them to publish the advertisement; that the advertisement was published without the consent of the respondents and the other persons named in it; and that the advertisement had been published due to their carelessness. The public apology was followed by a second apology written by the appellants' counsel to the respondents personally for the publication of the unauthorised congratulatory message which carried the unmistakable imputation that the respondents were loyal and owed allegiance to the Chinese President instead of the Sultan of Brunei as a Head of State. Being businessmen and having been granted Brunei citizenship in a predominantly Malay country, the advertisement was held by the Brunei Court to be libellous of the respondents. It was also the finding of the court that the appellants had failed until a late stage to furnish the name of one Lau King Kuo as the person from whom they had received the order to insert the advertisement. Now, it is on the face of these uncontroverted facts that in 1984 the appellants for the first time, after the Brunei judgment was decreed in July 1982 and after the Order 14 application was filed in Miri High Court, slammed the allegation of fraud against the respon-

dents. The appellants now allege that after further investigation, they come to know that the Brunei judgment was obtained by fraud because it was the respondents themselves and not Lau King Kuo who had made the order to insert the libelous advertisement.

The apology published voluntarily in the journal contained clear admissions on the part of the appellants (1) that the request for the advertisement was received by telephone and was published without the consent or authority of respondents;

(2) that it was published as a result of the appellants' own carelessness. Those were the undisputed admissions made by the appellants during the Brunei trial. Further, during the trial the appellants had named Lau King Kuo (whose particulars are not easily apparent though there is a suggestion from the Bar that he was an employee of the appellants at the material time) as the person responsible for requesting the publication of the advertisement. In these circumstances can the appellants now be allowed to change their stance completely by alleging that the judgment at the foreign trial was obtained by fraud? Can they now, after more than one year of the said judgment, allege that it was in fact the respondents themselves and not Lau King Kuo who was responsible for the publication? We do not think that they can. It should be noted that Lau King Kuo's name did not originate from the respondents. His existence and participation were introduced by the appellants at the trial. In such a situation, how could there be fraud on the respondents' part? Perhaps the appellants had made a mistake in making the admissions as contained in the public apology. But they have alleged fraud and not mistake. Thus, even on its very face the alleged fraud is clearly frivolous and vexatious. The nature of the alleged fraud is such that it cannot have been made bona fide. Since the burden of providing the existence of the triable issue is on the appellants, it is the more reason that they must condescend to particulars of the alleged fraud in their affidavits. In the absence of particularization we must, on the authority of *Wallingford case* agree with the learned trial judge that the affidavits of Mr. Lin are insufficient to raise a triable issue on fraud. By letter dated March 27, 1984 i.e. after the Order 14 application was filed, the respondents counsel did ask for particulars of the alleged fraud and the appellants counsel did give some particulars. But the fact that the respondents' counsel had made such a request does not mean that they have admitted the fraud. Be that as it may, even to the material question, "Please inform us of the acts and conduct of the plaintiffs to show that they were guilty of the alleged fraud, identifying all relevant documents relied on", the answer given merely stated, "The plaintiffs themselves had requested for the publication to the defendants' office at Bandar Seri Begawan, Brunei". Since the request for publication was admittedly received by telephone, the appellants have omitted giving particulars as to which of the respondents had made the phone call, nor have they particularized how and in what manner each of the respondents had taken part in the alleged fraud. In our view the particulars given were evasive and inadequate. In any event, the particulars supplied cannot detract from the failure of the appellants to particularize the fraud in their affidavits.

Looking at the alleged fraud from another aspect, what the appellants are in effect seeking is to introduce fresh evidence on the issue of who had given the order for publication of the libelous advertisement. In their public apology, the appellants had admitted that the publication was made as a result of their own carelessness and they agreed the publication was without the consent of the respondents. The question is, can they now have a second bite at the cherry and be allowed to retract their voluntary admissions, and can they now adduce fresh evidence to show that it was not their own carelessness but it was in fact the respondents themselves who had ordered the publication? On this particular issue, in our view the appellants are estopped from denying the admissions. Further, before fresh evidence can be adduced after judgment, the appellants must show that such evidence is not only material and credible, but also that they could not have been obtained with reasonable diligence for use at the original trial (see *Lau Foo Sun* v. *Government of Malaysia*).[4] The appellants have failed to indicate before us and also in the court below that such fresh evidence could not have been obtained at the trial in Brunei even if they had been diligent in their investigation. The application to adduce fresh evidence cannot in our view succeed.

Learned Counsel for the appellants has referred to us three decided cases for the proposition that whether a charge of fraud has or has not been fully investigated by a foreign court, the charge can be investigated by our Malaysian Court, and accordingly the learned trial judge ought to have allowed the case to go for trial and not to be stifled by the court under Order 14 judgment. The cases referred to – *Abouloff* v. *Oppenheimer*;[5] *Vadala* v.

Lawes;[6] and *Syal* v. *Heyward*[7] – can be found at pages 660-661 of Cheshire and North Private International Law (10th Edition). These decisions of the English Court of Appeal have in effect ruled the superiority of the principle that foreign judgments are impeachable for fraud over the principle that the merits of the foreign judgment cannot be reopened in that foreign judgments are conclusive on the merits and cannot be impeached for errors of fact or law. These authorities have not found favour with the learned author of the text book who said at page 661 that, "The effect of these three decisions is that the doctrine as to the conclusiveness of foreign judgments is materially and most illogically prejudiced". According to the said author at page 661, the strict view on fraud taken by the English Court of Appeal has also not been followed in New Zealand (see *Svirskis* v. *Gibson*)[8] and Canada (see *Read*, Recognition and Enforcement of Foreign Judgments, 272-281). In our case, no allegation of fraud was made at the Brunei trial nor was fraud deliberately witheld from being raised there by the appellants as was the case in *Syal* v. *Heward*. The facts of our case are distinguishable from the three Court of Appeal cases and as such they are not applicable, and we do not propose to express any final opinion on the strict view taken in those cases, except to say that the decisions in the three cases can be justified only on the ground that the foreign court has been misled by the fraud and not merely has made a mistake. In the case before us having regard to its factual situation, we do not think that the Brunei judgment could be said to have been obtained by fraud. The Brunei court was never misled. It acted on and accepted the voluntary admissions of the appellants themselves that the libel was published due to their own carelessness and it was not consented to by the respondents. If it now turns out that those admissions were made as a result of mistake, then the doctrine as to the conclusiveness of foreign judgments must be applied with full force and for this reason it is not possible for the Borneo High Court to reopen the case on its merit.

Having regard to the factual situation in this case, we see no reason to disturb the finding of the learned judge that the allegation of fraud is not only frivolous but also not bona fide. The reasons given by the learned judge for coming to this conclusion are well founded. Firstly, the failure of the appellants to condescend upon particulars of the fraud in their affidavits is fatal. In the words of the learned judge:

"However, none of the affidavits in opposition had condescended upon particulars of the alleged fraud – no explanation was offered as to why and how the defendant was satisfied that the publication was not requested by Lau King Kuo, whoever he was; no details of the investigation or the factual circumstances were given to support the bare fact that the plaintiffs had requested the publication of the defamatory statement; and there was nothing to show that evidence of this fact was not reasonably discoverable at the time of the trial in the Brunei Court. Under the circumstances, it was impossible for me to say that the defendant had satisfied the Court that there was an arguable issue with regard to fraud, such as would entitle the defendant leave to defend on that ground."

Secondly, the allegation of fraud is materially inconsistent with the apologies given by the appellants. The learned trial judge dealt with this point as follows:–

"The issue as to who had requested or authorised publication of the defamatory statement was disposed of not only by the Brunei Court but also by the defendant's own admission contained in the two apologies which were set out in the judgment of the Brunei Court exhibited to Mr. Sandhu's affidavit in reply. In the face of the admission, it was difficult to see how the complaint now raised by the defendant could be said to amount to a triable issue."

It is now additionally argued before us that in the Brunei litigation the appellants thought that Lau King Kuo was the person responsible for the publication of the libel, but more than one year later, as a result of further investigation, they believe it was in fact the respondents themselves who had ordered for the insertion of the advertisement. Yet, no step has been taken by the appellants to set aside the judgment in Brunei Court. The reason given that the respondents have no assets in Brunei, does appear to be a lame excuse.

An Order 14 judgment based on a final foreign judgment given on merits by a court of competent jurisdiction can be allowed in a proper case, even if there is allegation of fraud provided the court is satisfied that the fraud alleged is clearly frivolous. In the circumstances of this particular case, it is obvious that the allegation of fraud is frivolous, and the learned judge was justified in treating it as such. We are also in agreement with the learned judge's treatment of the law on Order 14 application.

The remaining point of interest in this appeal is whether the learned judge has jurisdiction to give judgment in Brunei currency as claimed in the pleading, or should the foreign judgment be converted to Malaysian Ringgit as is statutorily required in the case of a foreign judgment registered under the Reciprocal Enforcement of

Judgments Act 1958 by virtue of section 4(3)? In the House of Lords case of *The Despina R*[9] Lord Wilberforce had this to say at pages 696-697:

"My Lords, I do not think that there can now be any doubt that, given the ability of an English court (and of arbitrators sitting in this country) to give judgment or to make an award in a foreign currency, to give a judgment in the currency in which the loss was sustained produces a juster result than one which fixes the plaintiff with a sum in sterling taken at the date of the breach or of the loss. I need not expand upon this because the point has been clearly made both in *Miliangos* v. *George Frank (Textiles) Ltd.* [1976] A.C. 443, and in cases which have followed it, as well as in commentators who, prior to *Miliangos*, advocated abandonment of the breach-date-sterling rule. To fix such a plaintiff with sterling commits him to the risk of changes in the value of a currency with which he has no connection: to award him a sum in the currency of the expenditure or loss, or that in which he bears the expenditure or loss, gives him exactly what he has lost and commits him only to the risk of changes in the value of that currency, or those currencies, which are either his currency or those which he has chosen to use."

Further down the judgment at page 697, he went on to state:

"My Lords, in my opinion, this question can be solved by applying the normal principles, which govern the assessment of damages in cases of tort (I shall deal with contract cases in the second appeal). These are the principles of restitutio in integrum and that of the reasonable foreseeability of the damage sustained. It appears to me that a plaintiff, who normally conducts his business through a particular currency, and who, when other currencies are immediately involved, uses his own currency to obtain those currencies, can reasonably say that the loss he sustains is to be measured not by the immediate currencies in which the loss first emerges but by the amount of his own currency, which in the normal course of operation, he uses to obtain those currencies. This is the currency in which his loss is felt, and is the currency which it is reasonably foreseeable he will have to spend."

We do not, however, have the advantage of listening to full argument as to whether different principles would apply to cases on a claim based on foreign judgment at common law. Since this matter is not fully argued before us, we desire to hold ourselves free to deal with it if and when it arises in the future. In the instant appeal, the amount claimed by the respondents represents the damages assessed in Brunei currency by the High Court at Bandar Sri Begawan, arising out of a libel suffered by them. But since the respondents have decided to enforce the judgment by filing a claim in Miri, in accordance with the practice of the court, we are of the opinion that the judgment should be decreed in Malaysian currency. We would therefore vary the order by entering judgment for the respondents for such sum in Malaysian Ringgit equivalent to Brunei $109,192.12 cts. on the basis of Bank Negara rate of exchange prevailing at the date of the Order 14 Malaysian judgment viz. December 10, 1984.

Except for this variation, the order of the learned judge is affirmed. We would dismiss this appeal with costs, and the deposit should be paid to the respondents to account for taxed costs.

Appeal dismissed.

Solicitors: *K.Y. Lin & Co.; M.S. Sandhu.*

DATO MOHAMED HASHIM SHAMSUDDIN v. ATTORNEY-GENERAL, HONGKONG

[S.C. (Salleh Abas L.P., Seah & Abdoolcader S.C.JJ.) January 14 & 16, 1986]

[Kuala Lumpur – Supreme Court Civil Appeal No. 418 of 1985]

Practice and Procedure – Taking of evidence upon letter of request issued by Hongkong High Court – Evidence to be used in a criminal proceeding – Powers of High Court – R.H.C. 1980, O.1 r. 2 & O.66 r.1 – Courts Ordinance, 1948, s.99A – Courts of Judicature Act, 1964, ss. 16(l) & 25.

Interpretation of Statutes – Punctuation.

In this case the learned Chief Justice, Malaya, had made an *ex parte* order allowing for the taking of evidence before the High Court upon a letter of request issued by the Hongkong High Court. The evidence was to be used in a criminal proceeding pending in Hongkong. An application was made to set aside the order and this was dismissed in the High Court. The appellant appealed. It was submitted that the impugned order was bad and must be set aside as firstly Order 66 rule 1 of the Rules of the High Court under which it was made does not apply in relation to criminal proceedings and secondly there is no statutory authority empowering the High Court to make the impugned order.

Held (by a majority, Seah S.C.J. dissenting); (1) the statutory source and enabling provision for Order 66 of the Rules of the High Court is section 16(1) of the Courts of Judicature Act, 1964. Order 66 of the Rule of the High Court is valid and properly enacted in relation to both civil and criminal poceedings and therefore the order made in this case is *intra vires;*

(2) The order was made in relation to a matter pending before a court in Hongkong.

Also held by Salleh Abas L.P., the statutory powers of the High Court in addition to section 16(1) can also be found in section 25 of the Courts of Judicature Act, 1964.